

**INITIAL STATEMENT OF REASONS
FOR ADOPTION OF REGULATIONS GOVERNING
ELECTRICITY GENERATION SOURCE DISCLOSURE**

California Energy Commission
Docket No.03-CRS-01

I. INTRODUCTION

The California Energy Commission (Commission) was created by the Warren-Alquist State Energy Resources Conservation and Development Act (Public Resources Code section 25500 et seq.). The Act vests the Commission with a wide range of duties and responsibilities related to the development and conservation of energy resources in California. As the agency responsible for establishing the state's energy policy, the Commission collects, stores, analyzes, and disseminates a broad range of information.

Several sections of the Public Resources Code direct the Commission to conduct assessments and forecasts of all aspects of the energy industry in the state and authorize the Commission to collect data needed to carry out its responsibilities. Section 25216 states that the Commission shall "[u]ndertake a continuing assessment of trends in the consumption of electrical energy and other forms of energy and analyze the social, economic, and environmental consequences of these trends." Section 25216.5 designates the Commission as the central repository within state government for the collection of data on all forms of energy supply and demand, among other matters. Section 25320 requires the Commission to adopt an extensive data collection system to obtain the information necessary to perform the duties of the Commission. All of these sections give the Commission broad authority to collect information on energy related issues of statewide importance.

Additionally, the California Public Utilities Commission (CPUC) recently adopted Decision 03-04-030 in Order Instituting Rulemaking (OIR) 02-01-011 regarding the imposition of a Cost Responsibility Surcharge (CRS) for customers that choose to generate a portion of their electricity needs. This Decision sets forth the criteria for exempting eligible customers from the surcharge. In the Decision, the CPUC notes that the Commission's data collection experience and responsibilities make the agency the "logical" entity to collect the data based on criteria established in the Decision. As lead energy data collector for the state, the Commission is clearly in the best position to collect the information necessary for determining eligibility for the exemption based on the CPUC-adopted criteria. The Commission is the agency that conducts forecasting and assessments regarding the state's energy needs, and is responsible for producing a biennial Integrated Energy Policy Report (IEPR). The information the Commission will be collecting, tracking, analyzing, and disseminating as a result of this rulemaking will provide important feedback to the public, utilities, CPUC, and the Commission. It will assist the Commission's forecasting activities, including an assessment of CRS and allowed CRS exemptions on the deployment of distributed generation (DG). The results of this assessment will be a critical input to the Commission's statewide energy planning process.

II. DESCRIPTION OF PUBLIC PROBLEM

California is presently recovering from an unprecedented energy crisis which required the State to procure a significant share of electricity on behalf of the three investor-owned utilities during much of 2001, 2002, and beyond. Embedded in the

procurement decisions are fundamental assumptions regarding the level of demand required by utility customers.

Distributed generation or customer generation has the ability to produce benefits for California, including added supply diversity, peak demand reduction, and the possible delay and/or elimination of grid capacity expansions. Customers can receive economic benefits via reduced energy costs over the life of a particular project. Environmental benefits can also be achieved if renewable customer generation is utilized, with less fossil fuel-based energy being used. Despite these benefits and the State's policy of providing incentives for customers to generate their own electricity the State wants to ensure that customers do not avoid their responsibility to pay for the electricity procured on behalf of the utilities and their customers. The State desires to strike a balance between not wanting California bundled ratepayers to bear the burden of costs that were not incurred on their behalf, and discouraging the many benefits that distributed generation can offer to California. CPUC Decision 03-04-030 strikes this balance.

The Commission has the ability and resources to collect data on energy related issues, and is the lead state policy and data collection entity in this area. In order to best assess the eligibility for CRS exemptions, and how these exemptions impact statewide electricity planning the Commission should be the entity collecting and analyzing the data on new DG and CRS exemptions. The Commission is charged with producing a biennial IEPR that addresses all aspects of energy development and energy resources in the state. DG provides many benefits for energy development and resources within California. It is important for the Commission to collect and incorporate this data into the IEPR in order to provide accurate assessments of the impact that exit fees or CRS has had or will have on California's energy development.

III. DOCUMENTS AND STUDIES RELIED UPON

The proposed regulations are based on the Commission's broad data collection authority, previous Commission reports examining potential future energy supply and demand needs, including estimated new deployment of distributed generation/departing load. The proposed regulations incorporated criteria set forth in the CPUC Decision 03-04-030. The Commission also considered notes from Commission staff workshops, a Renewable Committee workshop held prior to this filing, and comments filed by stakeholders on the draft proposed regulations. These documents are listed below:

Energy Commission Distributed Generation Strategic Plan adopted June 2002.
{Publication 700-02-002}

CPUC Decision 03-04-030, adopted April 4, 2003 by the California Public Utilities Commission in Rulemaking 02-01-011.

Potential Topics for Consideration in Upcoming OIR, prepared by Scott Tomashefsky on Behalf of the Rule 21 Interconnection Working Group, June 5, 2003.

Summary and Comments from Commission Workshops held July 16, 2003, and August 13, 2003.

Energy Action Plan, adopted by the CPUC May 8, 2003, CEC April 30, 2003, and CPA April 18, 2003.

IV. ALTERNATIVES THAT WOULD LESSEN IMPACTS ON BUSINESS, INCLUDING SMALL BUSINESS; MANDATED TECHNOLOGIES

As stated above, the purpose of the rulemaking is to track information related to departing load, and whether such departing load is eligible for a CRS exemption. By tracking and maintaining this information in an accessible form for the public, the Commission will be assisting in reducing electricity costs for small businesses that otherwise would not readily be able to assess the economic feasibility of investing in customer generation. The Commission has solicited the comments of staff and affected entities with the specific goal of considering all means to minimize any potential impacts of seeking an eligibility determination for a CRS exemption to small businesses.

V. EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

There is no comparable federal law, as states have the sole authority to regulate the terms and conditions of retail electricity services.

VI. DISCUSSION OF SPECIFIC REQUIREMENTS

The following is a list of each of the Commission's data collection regulations as relates to information necessary to track departing load and the potential impact CRS exemptions may have on the greater statewide electrical system. The following includes a summary of and the rationale for the proposed additional regulations by section:

Section 1395 Scope

This section summarizes the scope and intent of the regulations.

Section 1395.1 Definitions

This section provides definitions necessary to understand the terms used for collecting data, and assessing information related to departing load CRS exemptions.

Section 1395.2 Departing Load CRS Information Form or “Form”

This section requires the Commission to develop a Form for Customers to report information related to the departing load generation, timeframes for operation, location, and contact information. The section lists the minimum information that must be provided for the Commission to assess impacts on departing load from implementation of CRS, and inclusion in the Queue. This section also allows the Electric Utilities to prepare a substantially similar form that may be used in lieu of the Commission form upon approval by the Commission.

Section 1395.3 Process for Assessing Eligibility for CRS Exemptions, and Reporting Requirements

This section sets forth the process for tracking and assessing eligibility and impacts associated with CRS exemptions. It outlines the roles and responsibilities of the customer requesting the exemption, the utilities¹ and the Commission. Once a utility has received a completed form from the customer, the utility submits the form to the Commission with an initial categorization as to whether the customer is fully or partially exempted. The Commission reviews the information provided by the customer and utility in making its determination.

The regulations outline the criteria determined by the CPUC in Decision 03-04-030 for the partial CRS exemptions, and full CRS exemptions. The utilities shall, based on Decision 03-04-030, automatically issue any full exemptions to eligible net energy metered customers, and customers seeking exemptions for generation under 1 MW that qualify for either the CPUC or Commission incentive programs. The utilities shall submit documentation of issuance of such exemptions to the Commission, in order for the Commission to include this information in the Queue set forth under section 1395.4.

Section 1395.4 CRS Exemption Queue and Procedures for Updating

This section allows the Commission to establish a queuing process for departing load CRS exemptions within the appropriate megawatt cap set by the CPUC. The Queue will set forth, on a first-come, first-serve basis, the order in which customers become eligible for a CRS exemption. Space in the Queue will be allocated to eligible customer generators based on annual estimated departing load, with capacity also being tracked to assess the maximum available departing load available at any given time. The Commission will post certain information on the website to ensure the public has access to information regarding space available in the Queue. The Queue will include tracking and collecting data for exemptions that have been granted within the appropriate megawatt cap established by the CPUC, as well as a waiting list for eligible customers

¹ For purposes of these regulations utilities “Electric Utilities” as defined in the Express Terms under section 1395.1(o). The definition states, “Electric Utility” means an investor-owned utility. In this case, Electric Utility refers to Pacific Gas and Electric Company, Southern California Edison, or San Diego Gas and Electric, depending on the service territory where the Customer Generation is located.

over the allowed megawatt cap (in the event that the cap is reached). The Commission will update the Queue weekly.

Customers will have up to 12 months from the date a CRS exemption is granted to the date of interconnection in order to receive the exemption and maintain a placement in the Queue. Alternatively, a customer with prior knowledge that their project will not be able to meet this 12 month timeframe, may submit a development plan that includes anticipated date of interconnection. The Commission may consider granting a space in the Queue for such projects, contingent on the customer generator's compliance with the development plan.

The Commission will also develop a monitoring process to ensure that customer generators continue to meet the requirements for CRS exemption eligibility, and that the utilities are complying with the provisions of this section in a timely manner.

Section 1395.5 Extension Requests and Other Substantive Changes

This section allows for customer generators to request time extensions or re-categorization to remain in the Queue, either for good cause or circumstances beyond the customer's control. The customer must also notify the Commission in writing of any substantive changes to the project, such as change of ownership or site location. All requests pursuant to this section must be submitted at least 30 days prior to the expiration of the customer's placement in the Queue. The Commission will notify the customer in writing of its decision within 30 days of receiving a request for extension of time or re-categorization. Customers will not be removed from the Queue until the Commission has made a final determination.

Section 1395.6 Incorporation of Information and Impacts of CRS and CRS Exemptions in to Integrated Energy Policy Report

This section discusses the incorporation of information and assessments related to CRS and CRS Exemptions into the IEPR that the Commission is statutorily required to produce on a biennial basis.